UPDATED STAFF REPORT
for
TENTATIVE RESOLUTION NO. R9-2002-0097

San Diego Regional Water Quality Control Board

Proposed Modifications to the Model SUSMP

May 30, 2002

Background

On February 21, 2001, the San Diego Regional Water Quality Control Board (SDRWQCB) adopted Order No. 2001-01, the San Diego Municipal Storm Water Permit (Permit). The Permit includes a set of requirements for how urban runoff from new development and significant redevelopment is to be managed by the County of San Diego, the incorporated cities of San Diego County, and the San Diego Unified Port District (Copermittees). The requirements provide that certain categories of development projects must implement best management practices (BMPs) to reduce pollutants and control flows leaving the projects. Under the Permit, the Copermittees are directed to collectively develop a plan to guide the implementation of the new development and significant redevelopment requirements. This plan is called the Model Standard Urban Storm Water Mitigation Plan (SUSMP).[1]

Since the SUSMP requirements are a relatively new aspect of municipal storm water permits in Southern California, the Permit provides that the Model SUSMP is to be approved by the SDRWQCB within the public process. The purpose of this approval is to determine the Model SUSMP's compliance with the Permit requirements, rather than to revisit the SUSMP requirements themselves. The SUSMP requirements have already undergone an extensive public review and comment process conducted by the SDRWQCB and State Water Resources Control Board (SWRCB). These requirements have been addressed during two SDRWQCB workshops and one SDRWQCB hearing. They have also been contested before the SWRCB, which upheld the requirements in Order WQ 2001-15.[2] Prior to issuance of Order WQ 2001-15, the SWRCB had previously upheld SUSMP requirements in Order WQ 2000-11, which addressed the implementation of SUSMP requirements in the Los Angeles region.

The Copermittees finalized and submitted their Model SUSMP on February 21, 2002, one year after adoption of the Permit. Development of the Model SUSMP was headed by the City of San Diego, with extensive participation from among the other Copermittees. The SDRWQCB also participated in the development of the Model SUSMP, to help

[1] The requirements prescribing the contents of the Model SUSMP are found at Permit section F.1.b.2 (starting on page 15).
[2] The SWRCB made one modification to the SUSMP requirements in Order WQ 2001-15, releasing retail gasoline outlets from meeting the SUSMP requirements.

ensure that the document would meet and be consistent with Permit requirements. This participation included review of three progressive draft versions of the Model SUSMP. Following the first two SDRWQCB reviews of the Model SUSMP, informal verbal comments were provided on its contents, together with suggested changes. Following the third SDRWQCB review, on a "final draft" version of the Model SUSMP, the SDRWQCB provided written comments to the Copermittees on December 10, 2001 (Attachment 3 of Supporting Document 4).

As stated above, the written comments on the Model SUSMP provided by the SDRWQCB were intended to ensure that the Model SUSMP meets the requirements of the Permit. However, the final Model SUSMP, submitted by the Copermittees on February 21, 2002, did not address all of the comments and issues conveyed by the SDRWQCB in its comment letter. Therefore, the Model SUSMP submitted by the Copermittees was found to be non-compliant with the Permit. To address this situation, the SDRWQCB proposed several modifications to the Model SUSMP. The SWRCB has previously found in Order WQ 2000-11 that such modifications are appropriate and at the discretion of the Regional Boards, when necessary to ensure compliance with permit requirements.

This modified Model SUSMP, a tentative resolution approving the modified Model SUSMP, and a Staff Report explaining staff modifications were sent out for a 30-day public comment period on April 16, 2002 (Supporting Document 4). On May 8, 2002, Regional Board staff also met with the Copermittees to discuss the proposed modifications to the Model SUSMP. Based on meetings with the Copermittees and written comments received, SDRWQCB staff has altered the original (April 16, 2002) modifications to the Model SUSMP to provide the Copermittees with more flexibility in implementing their programs. This Updated Staff Report reflects the Model SUSMP after SDRWQCB staff has responded to Copermittee comments. The proposed modifications to the Model SUSMP (including revisions to the original modifications in response to Copermittee comments) can be found in an underline-strikeout version of the Model SUSMP (Attachment 2 of Tentative Resolution R9-2002-097 (Supporting Document 1)). Each modification to the Model SUSMP proposed by SDRWQCB staff is further discussed below.

In making any modifications, SDRWQCB staff has attempted to minimize alteration of the Model SUSMP. Modifications were only made where it was determined to be necessary to ensure that the Model SUSMP is consistent and compliant with the Permit. Other potential modifications, which were determined to be unnecessary, were avoided. This is true even of some comments and suggestions originally provided to the Copermittees by the SDRWQCB in its December 21, 2001 comment letter.

Modifications

Page 5, Definition of Commercial Development

This modification adds "automotive dealerships" and "commercial airfields" to the Model SUSMP definition of Commercial Development as types of development which

constitute commercial development. These terms have been added to the definition of Commercial Development in order to make the definition consistent with the definition found in the Permit. The definition of Commercial Development in the Permit includes automotive dealerships and commercial airfields as types of development which fall under this category. The SDRWQCB previously notified the Copermittees that this change should be made to the Model SUSMP in its December 10, 2001 comment letter.

Page 6, Definition of Receiving Waters

Three modifications have been made to the Model SUSMP definition of Receiving Waters, as submitted by the Copermittees. The first change adds "streams (perennial, intermittent, and ephemeral)" to the definition of Receiving Waters as examples of the types of receiving waters to be covered by the definition. These terms are added to the definition of Receiving Waters to make the definition more consistent with the Permit and the Basin Plan. The Permit includes streams as a component of receiving waters at Finding 3, which states: "receiving waters, such as **streams**, lakes, lagoons, bays, and the ocean" (emphasis added). Moreover, at section F.1.b.2.b.xii, the Permit requires BMPs to be implemented "prior to discharging into receiving waters supporting beneficial uses." The Basin Plan makes no distinction between ephemeral, intermittent, or perennial streams, and makes clear that ephemeral streams certainly are receiving waters which do support beneficial uses. In its discussion of "inland surface waters," the Basin Plan states "although most free flowing streams in the Region are essentially interrupted in character having both perennial and **ephemeral** components, several beneficial uses, including aesthetic enjoyment and habitats for fish and wildlife, are made of these surface waters" (emphasis added). It also goes on to state "those waters not specifically listed [in the Basin Plan] (generally smaller tributaries) are designated with the same beneficial uses as the streams, lakes, or reservoirs to which they are tributary."[3] Moreover, the majority of streams within San Diego County are intermittent or ephemeral. A definition which does not address such streams neglects an exceptionally significant water resource within the region. To ensure protection of such water bodies, the Model SUSMP definition of Receiving Waters has been modified for their inclusion. The SDRWQCB previously notified the Copermittees that this issue should be addressed in the Model SUSMP in its December 10, 2001 comment letter.

The second modification made to the definition of Receiving Waters concerns its discussion of wetlands. The definition proposed by the Copermittees states that the Copermittees shall determine how wetlands are to be defined during SUSMP implementation. While this may be appropriate, it is also important to note that wetlands have been jointly defined at the Federal level by the United States Army Corps of Engineers (Federal Register 1982) and United States Environmental Protection Agency (Federal Register 1980). It should be clear that any definition of wetlands utilized by the Copermittees must at a minimum comply with the Federal definition, which defines wetlands as: "Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do

[3] San Diego Regional Water Quality Control Board, 1994. Water Quality Control Plan for the San Diego Basin (9). Pg. 2-9.

support, a prevalence of vegetation typically adapted for life in saturated soil conditions." Federal jurisdictional wetlands are both waters of the United States and waters of the State. It is also clear that they support beneficial uses. As such, the Permit must address urban runoff discharges into these waters. Since the Model SUSMP implements the Permit, the Model SUSMP has been modified to find jurisdictional wetlands to be receiving waters. This comment was not previously conveyed to the Copermittees prior to April 16, 2002, since the language in question was added to the Model SUSMP by the Copermittees after the SDRWQCB's review of the final draft Model SUSMP.

The third modification to the definition of Receiving Waters also concerns its discussion of wetlands. The definition proposed by the Copermittees states that "constructed wetlands are not considered wetlands under this definition." However, this statement neglects to recognize that wetlands can be constructed for various reasons. While it may be true that wetlands constructed as storm water BMPs should not be considered jurisdictional wetlands, other types of wetlands often must be considered jurisdictional. For example, many wetlands are constructed as mitigation to offset wetland impacts elsewhere. It is not appropriate for these wetlands to be considered non-jurisdictional. Mitigation wetlands are constructed to compensate for destruction of wetlands elsewhere. Essentially, mitigation wetlands are the creation of waters of the United States, designed to offset the loss of other waters of the United States. They therefore must be treated in the same manner with which the wetland they are replacing would be treated. Just as it would be inappropriate to discharge polluted runoff to a natural wetland, it is also inappropriate to discharge polluted runoff to a mitigation wetland constructed to offset the loss of a natural wetland. Without mitigation wetlands receiving equal treatment as natural wetlands, mitigation wetlands cannot be expected to achieve their purpose – replacement of a functioning natural wetland that has otherwise been lost. As waters of the United States which support beneficial uses, mitigation wetlands must be protected by the Permit from untreated urban runoff discharges. Since the Model SUSMP implements the Permit, the Receiving Waters definition has been modified to make it clear that wetlands constructed for mitigation purposes must be considered jurisdictional wetlands, and therefore must be protected. This comment was not conveyed to the Copermittees prior to April 16, 2002, since the language in question was added to the Model SUSMP by the Copermittees after the SDRWQCB's review of the final draft Model SUSMP.

Finally, in response to comments received, the Model SUSMP has been modified to help ensure that it is clear that constructed BMPs (other than mitigation wetlands) are not considered to be receiving waters under the Permit. The Permit promotes the use of "natural" BMPs at Finding 11, and the definition of Receiving Waters has been modified to be consistent with that approach. The definition states "constructed wetlands are not considered wetlands under this definition" and "other constructed BMPs are not considered receiving waters under this definition, unless the BMP was originally constructed in receiving waters." This is in line with the federal NPDES regulations, which state "waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA […] are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters

of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States" (40 CFR 122.2).

Page 7, Definition of Storm Water Conveyance System

This modification adds "ditches" to the Copermittees' Model SUSMP definition of Storm Water Conveyance System as a type of conveyance which can be part of a storm water conveyance system. This term has been added to the definition of Storm Water Conveyance System in order to make the definition consistent with the definition found in the Permit. The definition in the Permit includes ditches as a type of conveyance which can be part of a storm water conveyance system. The SDRWQCB previously notified the Copermittees that this change should be made to the Model SUSMP in its December 10, 2001 comment letter.

Page 9, Section VI. Storm Water BMP Selection Procedure

SDRWQCB staff originally proposed to delete the phrase "where determined applicable and feasible by the Copermittee" from this introductory paragraph, which outlines the procedure by which BMPs are to be selected by project proponents. The subject phrase was originally removed from the Model SUSMP submitted by the Copermittees due to its overarching nature, which implied that all of the BMP requirements of the Model SUSMP were subject to the Copermittees' discretion. This implication was problematic, since the Permit contains Model SUSMP provisions that are expressly required for all projects. While the Copermittees certainly have discretion in implementing many aspects of the Model SUSMP, it is misleading to include such a statement up front in the document, where it would essentially apply to the entire Model SUSMP. However, after discussion with the Copermittees, they proposed alternative language with addressed these concerns. The Model SUSMP was therefore modified to include the Copermittees' suggested phrase.

Page 9, Section VI. Site Design Storm Water Treatment Credits

In the Model SUSMP submitted by the Copermittees, a placeholder was included in the document to allow the Copermittees to develop a system to give "storm water treatment credits" to projects that implement good site design best management practices (BMPs). The storm water treatment credits would allow projects to reduce the amount of runoff volumes/flows needed to be treated and controlled, in exchange for implementation of good site design BMPs (e.g. conservation of natural areas and stream buffers). The original modification made by staff on April 16, 2002 was to remove the Site Design Storm Water Treatment Credits section from the Model SUSMP, since it was a only a conceptual placeholder, rather than a fully developed program component. In response, the Copermittees provided written comments stating that removing this section from the Model SUSMP would greatly reduce their flexibility in implementing their programs. They requested that the placeholder remain in the modified Model SUSMP, allowing the Copermittees to submit a Site Design Storm Water Treatment Credit system for SDRWQCB approval at a later date.

To address Copermittee concerns, the wording in the proposed Model SUSMP has been restored and modified to allow for the development of a Site Design Storm Water Credit system. A single credit system is to be developed by the Copermittees or a Copermittee and submitted to the Regional Board for review and approval. Copermittees which want to utilize a credit system will then be allowed to implement their programs in compliance with that one system which has been submitted and approved. Use of the credit system would allow for site design BMP implementation to be used in order to reduce the runoff volumes and flow rates which a site would need to treat and control. However, the credit system would not allow for the removal of all structura1 treatment BMP requirements. Other states have developed storm water credit systems, including the Maryland Department of the Environment. Good examples of site design BMPs that could be included in a credit system include (1) disconnection of rooftop runoff from impervious surfaces, (2) stream buffers, and (3) natural area conservation. Some credit concepts used elsewhere which would not meet permit requirements include (1) credit for directing sheet flow from impervious areas like parking lots to pervious areas (inadequate treatment) and (2) credit for "environmentally sensitive development" (lack of structural treatment BMPs).

Pages 9 - 10, Section VI. Alternative Methods for Achieving Treatment Requirements

The section was originally removed from the Model SUSMP submitted by the Copermittees because the Alternative Methods for Achieving Treatment Requirements approach is not in compliance with the Permit. Essentially, the section would allow a proposed project to conduct "offsite mitigation" of urban runoff impacts resulting from a project, rather than requiring the project to treat the urban runoff it generates. For example, under this section of the Model SUSMP, a project could choose to treat urban runoff from a nearby existing site, while allowing urban runoff from the proposed project to be discharged untreated. Sections F.1.b.2 and F.1.b.2.b of the Permit do not provide for such an approach. These Permit sections require that proposed projects implement structural treatment BMPs to reduce pollutants and control flows specifically generated by the proposed project. Section F.1.b.2 states that the Model SUSMP must "reduce pollutants and runoff flows from all new development and significant redevelopment projects."

In addition, such an approach has not been adequately developed. Many uncertainties still exist, including: (1) Would the approach apply to both new development and redevelopment, or redevelopment only? By their very nature, most (if not all) new development projects should be able to treat their own urban runoff. It may be more appropriate to limit the approach to new development projects. (2) If implemented, would this approach preclude Copermittee use of the structural treatment BMP waiver provision found at Permit section F.1.b.2.h, since the approach would essentially make BMP implementation feasible for all projects? (3) What if the pollutants generated by the project and the "mitigation" site don't match? Would it be allowable for a project which primarily generates heavy metals to implement BMPs at a "mitigation" site which primarily generates nutrients? The approach could be problematic since it does not

ensure that the most significant pollutants of concern are addressed. (4) How would maintenance of "mitigation" site BMPs be handled? Would the project proponent or the "mitigation" site owner be held responsible for BMP maintenance? Assuming the project proponent would be responsible for BMP maintenance, access issues could be significant. (5) How would the approach be administratively managed? If BMPs are to be implemented at a "mitigation" site, tracking of their construction and maintenance could prove challenging.

Since the approach outlined in the Alternative Methods for Achieving Treatment Requirements section of the Model SUSMP does not comply with the Permit, and it has not been fully developed, allowing for many uncertainties regarding its implementation to remain unresolved, it has been modified. Rather than remove the entire section from the Model SUSMP, as was originally proposed by SDRWQCB staff, the present modification of the Model SUSMP allows Alternative Methods for Achieving Treatment (such as the City of San Diego LEAD method) to be implemented, provided a "waiver of infeasibility" (per Permit section F.1.b.2.h) has been granted for a project. In this manner, Copermittees can implement Alternative Methods for Achieving Treatment for "waived" projects, which will allow the program to become more fully developed. Implementation of the Alternative Methods for Achieving Treatment Requirements method, only where projects have received a "waiver of infeasibility," would be in compliance with the Permit. In turn, after full development of the program, including resolution of associated uncertainties, the Alternative Methods for Achieving Treatment could then be proposed for use during the next permit cycle.

Finally, it is worth noting that the Alternative Methods for Achieving Treatment Requirements section is not necessary for the Model SUSMP to support so-called "regional solutions." Off-site BMPs are allowed by the modified Model SUSMP as proposed, provided that the BMPs treat the runoff generated by the project for which they are constructed.

The SDRWQCB previously notified the Copermittees of its concerns regarding Alternative Methods for Achieving Treatment in its December 10, 2001 comment letter.

Pages 11 – 19, Section VI.1 (Identify Pollutants & Conditions of Concern) and Section VI.2 (Establish Storm Water BMPs)

Several modifications to pages 11 – 19 of the Model SUSMP submitted by the Copermittees have been made regarding how the Model SUSMP dictates identification of pollutants of concern and implementation of treatment BMPs to address those pollutants of concern. These changes have been made in order to make the Model SUSMP and the Permit consistent. The Model SUSMP method for identifying pollutants of concern is not in compliance with the Permit. The Model SUSMP only uses impaired water bodies in its consideration and identification of pollutants of concern. Conversely, sections F.1.b.2.b.iii and F.1.b.2.e of the Permit additionally require consideration of pollutants associated with the land use type of the development, as well as any pollutant commonly associated with urban runoff. While control of pollutants which have the potential to

cause or contribute to exceedances of water quality standards is important, it is also important that the Model SUSMP prevent degradation of receiving waters which are not impaired. For this reason, the Permit does not limit pollutants of concern to potentially impairing pollutants only, but also requires consideration of common urban runoff pollutants and pollutants associated with various land use types.

To address this situation, the Model SUSMP has been modified to identify potentially impairing pollutants as "primary" pollutants of concern, while common urban runoff pollutants or pollutants associated with a particular land use type are identified as "secondary" pollutants of concern. In this manner, potentially impairing pollutants can receive priority and be targeted through the implementation of BMPs which are effective in removing the primary pollutant of concern. Moreover, for projects where primary pollutants of concern do not exist, secondary pollutants of concern can then be identified and addressed by BMPs with a similar approach.

The second set of modifications made to these sections of the Model SUSMP, as submitted by the Copermittees, applies to how BMPs are to be selected to address pollutants of concern. The BMP Selection Procedure of the Copermittees' Model SUSMP was originally modified because it did not require implementation of effective BMPs for projects which were not discharging to an impaired water body. While the Copermittees' Model SUSMP did require effective BMPs for projects contributing to a receiving water impairment, it allowed other projects to implement essentially any BMP available, regardless of effectiveness.

The Model SUSMP contains a table (Table 3) which identifies which BMPs are most effective for various pollutants. However, rather than require that all projects use this table to identify which BMPs will be implemented, the Copermittees' Model SUSMP only required that this table be utilized by projects discharging to impaired water bodies. Regarding projects which are not discharging to impaired water bodies, the Model SUSMP only stated that they "should use Table 3 […] to aid in selecting the structural treatment BMP(s)." This would allow for projects to immediately choose less effective BMPs for implementation, even when more effective BMPs are available and feasible for the project. Such an approach is not in compliance with the maximum extent practicable (MEP) standard outlined in the Permit. Attachment D of the Permit includes a discussion of the MEP standard by the SWRCB, which states "Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. […] [I]t would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP based solely on cost, which would be clearly less effective."

Table 3 contains very useful information for pairing the correct BMP with specific pollutants generated by a project. The use of the table should not be limited to only those situations concerning impaired water bodies. The table can be equally useful for protecting non-impaired water bodies, and should be used as such. For this reason, the

Model SUSMP has been modified to ensure that all SUSMP projects use Table 3 for identifying effective BMPs which will address the project's pollutants of concern.

The original modifications to the Model SUSMP required projects to implement BMPs with a "high" or "medium" removal efficiency for the project's pollutants of concern, where feasible. While the Model SUSMP will continue to require implementation of effective BMPs, the original modifications have been revised to address Copermittee concerns and provide them with more control over implementation of their local SUSMP programs. Specific detail previously added to the Model SUSMP by SDRWQCB staff regarding determination of effective BMPs has been removed, with the understanding that the Model SUSMP is a regional document, and that each Copermittee's local SUSMP and planning review process will include more detail as to how effective BMPs are identified and implemented.

The SDRWQCB previously notified the Copermittees of its concerns regarding BMP selection in its December 10, 2001 comment letter. In addition, the SDRWQCB provided the Copermittees with an underline-strikeout version of the draft Model SUSMP exhibiting the anticipated modifications discussed in this section.

Pages 15 - 16, Section VI.1.c. Identify Conditions of Concern

One modification to the Identify Conditions of Concern section of the Model SUSMP is the inclusion of "peak flow rate" and "flow velocity" as runoff characteristics which must be computed as part of the drainage study. This change has been made in order to make the Model SUSMP and the Permit consistent. The Model SUSMP requires each project to conduct a drainage study, which includes calculation runoff volume, time of concentration, and retention volume. However, sections F.1.b.2.b.i and F.1.b.2.j of the Permit require control of "peak storm water discharge rates and velocities" in order to protect against downstream erosion. Therefore, any studies to be conducted to meet this requirement should also include calculation of peak flow rates and velocities. The SDRWQCB previously notified the Copermittees that this change should be made to the Model SUSMP in its December 10, 2001 comment letter.

Another modification to the Identify Conditions of Concern section of the Model SUSMP originally proposed by SDRWQCB staff was the addition of the requirement that the Copermittees "develop numeric criteria to, at a minimum, control peak storm water discharge rates and velocities in order to maintain or reduce pre-development downstream erosion and protect stream habitat." This modification was made to address the Model SUSMP requirement for each project to hire a consultant who "shall establish that pre-project hydrologic conditions affecting downstream conditions of concern would be maintained by the proposed project." This statement was considered too broad, in that it did not include specific criteria identifying which hydrologic conditions must be controlled or to what extent.

In response to SDRWQCB staff's originally proposed modification, the Copermittees argued that they did develop "criteria" for control of downstream erosion in the Model

SUSMP, by requiring each project to conduct a drainage study to address conditions of concern and downstream erosion. In this respect, they met the requirements of the Permit in the strictest sense, even if they may not have met the intent of the Permit. Therefore, the modification of the Model SUSMP requiring development of a numeric criteria over the permit cycle has been removed from the Model SUSMP. However, in relying upon "drainage studies" to protect streams from downstream erosion resulting from new development, the Copermittees must conduct extensive review of these studies to ensure that they are effective in protecting against downstream erosion caused by altered flow rates and velocities. It is expected that the drainage studies would describe any existing and predicted problems such as flooding, erosion, and related water quality problems resulting from project flows. The drainage study is also expected to be used to develop measures to address any identified potential erosion and related problems caused by the project. Failure to require development and implementation of effective drainage studies will be a violation of the Permit requirement to "control post-development peak storm water runoff discharge rates and velocities to maintain or reduce pre-development downstream erosion, and to protect stream habitat."

Page 23, Section VI.2.b, Step 5 Design Trash Storage Areas to Reduce Pollution Introduction

This modification changes to word "or" to "and", thereby requiring projects to both (1) implement site design BMPs for trash storage areas and (2) provide coverage for trash containers.[4] This modification has been made in order to make the Model SUSMP compliant with the Permit. Section F.1.b.2.b.ix of the Permit requires projects to include "properly designed trash storage areas." A trash storage area is not properly designed if it only meets one of the requirements listed above, as is currently allowed by the Model SUSMP. The two Model SUSMP provisions for trash storage areas are not equivalent, and should therefore not be treated as interchangeable. For example, a trash storage area which only provides lids for trash receptacles, but is not self-contained, allows for leaks or spills to be transported outside the trash storage area. Likewise, a trash storage area which does not provide coverage for trash receptacles allows for those receptacles to fill with rainwater, threatening discharge of leaked substances. Therefore, to ensure that trash storage areas are "properly designed," the Model SUSMP has been modified to require both implementation of site design BMPs and container coverage at trash storage areas. Finally, the SDRWQCB previously notified the Copermittees that the Model SUSMP should contain this change in its December 10, 2001 comment letter.

Page 24, Section VI.2.b, Step 7.d Maintenance Bays

This modification requires maintenance bays to both (1) be indoors or self-contained, and (2) include a drainage system to capture all wash water, leaks, and spills. As submitted, the Model SUSMP required only one of these provisions for maintenance bays. This modification has been made in order to make the Model SUSMP consistent with the Permit, which requires pollutants to be controlled to the maximum extent practicable and

[4] Detached residential homes are excluded from this requirement.

illicit discharges to be prohibited. A maintenance bay does not meet these Permit requirements if it only implements one of the Model SUSMP provisions listed above, as currently allowed by the Model SUSMP. The Model SUSMP provisions are not equivalent, and should therefore not be treated as interchangeable. For example, a maintenance bay which is indoors, but does include a drainage system to capture all wash water, does not adequately prohibit illicit discharges. Likewise, a maintenance bay which contains a drainage system to capture wash water, but does not preclude run-on and runoff, does not control pollutants to the maximum extent practicable, since run-on and runoff from storm events involve large volumes of water not typically captured by leak control systems. Therefore, to ensure that maintenance bays prohibit illicit discharges and control pollutants to the maximum extent practicable, the Model SUSMP has been modified to require implementation of both run-on and runoff control and illicit discharge control. It is also worth noting that both of these requirements for maintenance bays are required in the Los Angeles area Model SUSMP, which was upheld by the SWRCB in Order WQ 2000-11. Finally, this comment was not conveyed to the Copermittees prior to April 16, 2002, since the final draft Model SUSMP previously reviewed by the SDRWQCB required maintenance bays to implement both provisions.

Pages 24 - 25, Section VI.2.b, Step 7.e Vehicle Wash Areas

This modification requires vehicle wash areas to be (1) self contained; (2) equipped with a clarifier or other pretreatment facility; and (3) properly connected to the sanitary sewer. This is opposed to the submitted Model SUSMP, which only required implementation of one of these provisions. This modification is included to make to Model SUSMP consistent with the Permit, which requires that pollutants be controlled to the maximum extent practicable and illicit discharges be prohibited. A vehicle wash area does not meet these Permit requirements if it only implements one of the Model SUSMP provisions listed above, as currently allowed by the Model SUSMP. The Model SUSMP provisions are not equivalent, and should therefore not be treated as interchangeable. For example, a vehicle wash area which is covered with a roof, but is not connected to the sanitary sewer, does not adequately prohibit illicit discharges. Likewise, a vehicle wash area which is connected to the sanitary sewer, but does is not self-contained, does not control pollutants to the maximum extent practicable, since run-on and runoff from storm events involve large volumes of water not typically captured by small sanitary sewer diversion systems. Therefore, to ensure that vehicle wash areas prohibit illicit discharges and control pollutants to the maximum extent practicable, the Model SUSMP has been modified to require implementation of all three vehicle wash area provisions. It is also worth noting that both of these requirements for vehicle wash areas are required in the Los Angeles area Model SUSMP, which was upheld by the SWRCB in Order WQ 2000-11. Finally, this comment was not conveyed to the Copermittees prior to April 16, 2002, since the final draft Model SUSMP previously reviewed by the SDRWQCB required vehicle wash areas to implement all three provisions.

Page 25, Section VI.2.b, Step 7.g Equipment Wash Areas

The modifications and requirements for Equipment Wash Areas are identical to those for Vehicle Wash Areas. Therefore, the points made above relating to Vehicle Wash Areas also apply to Equipment Wash Areas.

Page 26, Section VI.2.b, Step 7.i Roadways

The word "enhanced" has been removed from this section of the Model SUSMP to make the section consistent with the modifications made to the Identify Pollutants & Conditions of Concern and Establish Storm Water BMPs sections of the Model SUSMP discussed above.

Page 28, Section VI.2.c, Step 8 Flow

This modification adds the phrase "for each hour of a storm event" to the second and third numeric sizing criteria options for flow-based BMPs. The phrase was added to make each of the numeric sizing criteria options for flow-based BMPs consistent. The phrase has already been included in the Model SUSMP as part of the first flow numeric sizing criteria option, due to changes made by the Copermittees based on verbal comments received from the SDRWQCB in October 2001. While the phrase was only added to the first flow numeric sizing criteria option at that time, the intent of the verbal comments was to have the phrase added to each of the three flow numeric sizing criteria options. It was requested that the phrase be added to each of the flow numeric sizing criteria to exhibit that flow must be treated throughout the duration of a storm event, and not just during the first hour of the storm event. Therefore, in order to make each of the flow numeric sizing criteria options clear and consistent, the Model SUSMP has been modified so that each option includes the phrase "for each hour of a storm event." The SDRWQCB previously notified the Copermittees that the Model SUSMP should contain this change in its December 10, 2001 comment letter.

Page 29, Section VI.2.c, Step 9 Locate BMPs Near Pollutant Sources

This modification is a simple correction to a cross reference found in the Model SUSMP. The section referenced in the Model SUSMP did not exist, and was therefore corrected so that the Model SUSMP referenced the correct section. The SDRWQCB previously notified the Copermittees that the Model SUSMP should contain this change in its December 10, 2001 comment letter.

Conclusion

Some sections of the Model SUSMP, as submitted by the Copermittees, were inconsistent or non-compliant with the Permit. For this reason, the SDRWQCB has proposed modifications to the Model SUSMP. The Model SUSMP, as modified by the SDRWQCB, is consistent and compliant with the Permit.